

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of |) | ROUX |
| |) | |
| Title |) | Motor Vehicle Fender |
| |) | |
| US Serial No. |) | 10/767 452 |
| |) | |
| Filing Date |) | 29 January 2004 |
| |) | |
| Art Unit |) | 3616 |
| |) | |
| Examiner |) | Brown, Drew J. |
| |) | |
| Attorney Docket No. |) | 04-11 |

AMENDMENT PURSUANT TO 37 C.F.R. § 1.113

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In response to the final Office Action mailed 25 April 2007, Applicants request admission of the amended the claims and consideration by the Examiner of the supporting arguments. Applicants request early and favorable action on claims 1-2 and 5-9.

Claims.

- 1.(currently amended) A motor vehicle side fender having a skin separating an inside and an outside of the fender, the outside of the fender being intended to be visible from outside the vehicle, wherein the skin possesses a breakable zone suitable for opening when subjected to thrust from the inside towards the outside of the fender.
- 2.(currently amended) The side fender of claim 1, ~~made~~ consisting of plastics material.
- 3.(canceled).
- 4.(canceled).
- 5.(currently amended) ~~A motor vehicle side fender comprising a skin separating an inside face and an outside face of the fender, the skin includes a breakable zone suitable for opening when subjected to thrust from the inside face towards the outside face of the fender,~~ The motor vehicle side fender of claim 1, wherein the breakable zone comprises a shallow groove.
- 6.(previously presented) The side fender of claim 5, wherein the inside face of the fender includes the groove and the outside face of the fender is uniform including over the groove.
- 7.(currently amended) ~~A motor vehicle side fender comprising a skin separating an inside face and an outside face of the fender, the skin includes a breakable zone suitable for opening when subjected to thrust from the inside face towards the outside face of the fender,~~ The motor vehicle side fender of claim 1, wherein the breakable zone is substantially rectangular.
- 8.(currently amended) ~~The fender according to claim 1, in which~~ A side fender for a motor vehicle comprising a skin separating an inside and an outside of the fender,

wherein the skin includes a breakable zone that opens when subjected to thrust from the inside towards the outside of the fender, and the inside of the fender includes an airbag housing ~~situated in register with the breakable zone.~~

9.(previously presented) The fender according to claim 8, in which the airbag housing is integrally molded with the fender and the fender consists essentially of plastics material.

REMARKS

Claim 1 has been amended to teach that the outside face of the fender is visible from the outside of the vehicle. Claims 5 and 7 have been amended to depend from claim 1. Claim 8 has been amended to eliminate the indefinite phrase “in register.” The terminology of claim 2 has been amended to comply with standard US practice.

Arguments

The Examiner has indicated that claim 8 would be allowable if rewritten to overcome the indefinite rejection and to include all limitations of the base claim. Claim 8 has been so amended and Applicant believes claim 8 is now allowable. Claim 9 is allowable as dependent upon claim 8.

The Examiner has rejected claim 1-2 and 5-7 as both anticipated and obvious in light of Nakata. Amended claim 1 recites that the outside face of the fender is that piece of the fender which is visible from outside the vehicle. This amendment is supported by the specification as filed on page 1 lines 31-32. According to amended claim 1, the skin includes the breakable zone. The skin is that piece of the fender which separates the inside and the outside of the fender, where the outside of the fender is intended to be visible from outside the vehicle.

In Nakata, the outside face of the fender is situated on the left edge of 14A of Figure 1 of Nakata. The fragile portion 32 drawn on Figure 1 of Nakata is not included in the skin of the fender but in a portion 14B of the fender serving as a means for fixing the fender of the vehicle. Nakata, therefore, does not disclose a breakable zone included in the skin of the fender and so lacks at least one element of the amended claim. Nakata cannot anticipate claim 1. Regarding obviousness, KSR Int’l. Co. v. Teleflex, Inc., 550

US ____ (2007) supported a liberal interpretation of the teaching, suggestion, motivation test of the Federal Circuit. See, e.g., KSR, slip op. at 14 (finding important the identification of a reason that would have prompted a person of ordinary skill in the relevant field to combine the prior art elements in the manner claimed). Nakata does not teach or suggest a fragile portion 21 of Figure 1 on the skin of the fender. Amended claim 1 is, therefore, neither anticipated nor obvious in light of Nakata.

Applicant believes all claims are in condition for allowance. As instructed by the Examiner, claims 8 and 9 have been amended to remove indefiniteness. Amended claim 1 and dependent claim 2 and 5-7 are allowable over Nakata. Applicant requests admission of the amended claims and allowance of claims 1-2 and 5-9.

Date: 25 July 2007

Respectfully submitted,

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